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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,692	09/19/2003	Dean L. McClymonds	13.27461	4706
25208	7590	03/08/2005	EXAMINER	
JOHN W JORDAN IV GACA MATIS BAUM & RIZZA FOUR GATEWAY CENTER, 444 LIBERTY AVENUE SUITE 300 PITTSBURGH, PA 15222			TORRES, ALICIA M	
		ART UNIT		PAPER NUMBER
		3671		
DATE MAILED: 03/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/664,692	MCCLYMONDS, DEAN L.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alicia M Torres	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 11 February 2005.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 3 and 7-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 3 and 7-10 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 3, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fackrell et al., hereafter Fackrell, in view of Keller.
3. In regard to claim 3, Fackrell discloses a mowing device comprising:

A frame (11) having a right side (12) and a left side (13),  
A first pair of ground wheels (165, 168) mounted on the right side (12) of the frame (11),  
A second pair of ground wheels (165, 167) mounted on the left side (13) of the frame (11),  
Means (132) for controlling the speed and direction of rotation of the first pair of ground wheels (165, 168), the means (132) comprising a first motor mounted on the right side (12) of the frame (11),  
Means (128) for controlling the speed and direction of rotation of the second pair of ground wheels (165, 167) independent of the speed and direction of rotation of the first pair of ground wheels (165, 168), the means (128) comprising a second motor mounted on the left side (13) of the frame (11),

A deck (18) vertically adjustably attached to the frame (11), the deck (18) including a retractable segment (14, 16) and means (122, 124) for raising and lower the retractable segment (14, 16) and,

A vegetation cutting blade (178) rotatably attached to the deck (18).

However, Fackrell fails to disclose wherein the means for controlling the speed and direction of rotation of the first pair of ground wheels is remotely controllable, the means comprising a first remotely controllable motor mounted on the right side of the frame,

Wherein the means for controlling the speed and direction of rotation of the second pair of ground wheels independent of the speed and direction of rotation of the first pair of ground wheels is remotely controllable, the means comprising a second remotely controlled motor mounted on the left side of the frame; and

wherein the means for raising and lower the retractable segment is remotely controlled.

Keller discloses a traditional user operated lawnmower that has been converted to remote control.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control conversion as taught by Keller for the speed and direction control and retractable segment control of the mowing device of Fackrell in order to relieve physical exertion and discomfort.

Furthermore, it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art.

4. In regards to claims 7, 8, Frackell discloses a mowing device comprising:
  - A frame (11) having a right side (12) and a left side (13),
  - A deck (18) detachably attachable to the frame (11) at any one of a plurality of heights,
  - A vegetation cutting blade (178) rotatably attached to the deck (18),
  - A first pair of ground wheels (165, 168) mounted on the right side (12) of the frame (11),
  - A second pair of ground wheels (165, 167) mounted on the left side (13) of the frame (11),
  - A first hydraulic pump (108) mounted on the deck (18),
  - A first hydraulic motor (132) mounted on the right side (12) of the frame (11), the first hydraulic motor (132) being hydraulically connected to the first hydraulic pump (108) and the first hydraulic motor (132) being mechanically connected to the first pair (165, 168) of ground wheels,
  - A second hydraulic pump (106) mounted on the deck (18), the second hydraulic pump (106) being controllable independent from the first hydraulic pump (108), and
  - A second hydraulic motor (128) mounted on the left side (13) of the frame (11), the second hydraulic motor (128) being hydraulically connected to the second hydraulic pump (106) and the second hydraulic motor (128) being mechanically connected to the second pair of ground wheels (165, 167), as per claim 7; and

Wherein the deck (18) includes a retractable segment (14, 16) and means (122, 124) for raising and lower the retractable segment (14, 16), as per claim 8.

However, Fackrell fails to disclose wherein the hydraulic pumps are remotely controlled, as per claim 7; and

Wherein the means for raising and lower the retractable segment is remotely controlled, as per claim 8.

Keller discloses a traditional user operated lawnmower that has been converted to remote control.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control conversion as taught by Keller for the speed and direction control and retractable segment control of the mowing device of Fackrell in order to relieve physical exertion and discomfort.

Furthermore, it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art.

5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fackrell and Keller as applied to claim 7 above, and further in view of Taube.

The device is disclosed as applied above. Fackrell further discloses an internal combustion engine (20) mounted on the deck (18), as per claim 9; and

Wherein the internal combustion engine (20) is a two cycle gasoline engine, as per claim 10.

However, the combination fails to disclose wherein the internal combustion engine is remotely controlled, as per claim 9; and

a remotely controlled clutch connecting the remotely controlled internal combustion engine to the vegetation cutting blade, as per claim 9.

Keller teaches that it is known in to the art to make manual devices remotely controlled.

Taube discloses a similar device including a remotely controlled clutch connecting the remotely controlled internal combustion engine to the vegetation cutting blade (unnumbered, see column 5, lines 27-34).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the clutch of Tuabe on the device of Fackrell and Keller in order to selectively control actuation.

***Response to Arguments***

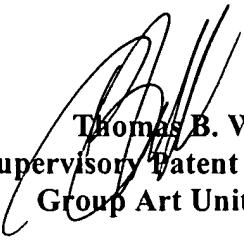
6. Applicant's arguments with respect to claims 3 and 7-10 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



Thomas B. Will  
Supervisory Patent Examiner  
Group Art Unit 3671

AMT  
February 24, 2005